THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 5113 OF 2007

20.04.2007

Between:

V.Rajyalakshmi w/o V.Ravi Kiran Rao,
Himayathnagar, Hyderabad and others

…Petitioners

And :

The Municipal Corporation of Hyderabad
Hyderabad and others

… Respondents

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WRIT PETITION NO. 5113 OF 2007

ORAL ORDER :

The petitioners applied to the 1st respondent for accord of approval for sub-division of Plot Nos. 2,3,4&7 in Sy.No. 403/151/2, Women's Cooperative Housing Society, Banjara Hills, Hyderabad. By the order dated 21/23.11.2006 the 2nd respondent rejected and returned the unapproved applications/proposals submitted by the petitioners on the ground that as against the judgment of the Division Bench of this court dated 17.2.2006 in W.P.No.10440/85 and Batch, the District Collector has filed S.L.P. No.6717 of 2006 before the Supreme Court, which is pending. By the judgment dated 17.2.2006 the Division Bench had quashed the proceedings initiated against the petitioners and others u/Sec.166-B of the

Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli ('the Act') on the ground, *inter alia*, that the proceedings were initiated after an inordinate delay and meanwhile third party expectations and rights had accrued.

Earlier, applications for building permission were made by other similarly situated plot owners, but were not considered by the 1st respondent. Those persons filed W.P. 24781/95. A learned single Judge, by the order dated 9.11.1995 had directed the respondent-Municipal Corporation of Hyderabad to consider the building applications of the petitioners therein, after an undertaking to pay the prevailing market price in the event of the eventual rejection of the writ petition. Against that order a writ appeal was filed, which was dismissed. The petitioners further state that in an earlier round of litigation before the Supreme Court the State had prayed for an order against the petitioners and others not to make constructions, but the Supreme Court had declined to grant stay of construction, by an order dated 12.13.1999 in Civil Appeal Nos. 13010 and 13019 of 1995. It is also asserted on behalf of the petitioners, to which there is no demurral by and on behalf of the respondents, that no interim stay was granted by the Supreme Court in the SLP stated to have been filed by the State against the orders of the Division Bench dated 17.2.2006.

On behalf of the 2nd respondent it is also asserted that the State is proposing to initiate action against the writ petitioners under the amended provisions of the A.P Assigned Lands (Prohibition of Transfer) Act 1977 to cancel the assignments in favour of the predecessors-in-title of the writ petitioners. These proposals of the State are at any rate in the crucible of the future. For the *nonce* the judgment of the Division Bench in W.P. No. 10440/85 is operational and the proceedings against

the petitioners u/Sec.116-B of the Act are under eclipse having been invalidated by the judgment, subject to the decision in the SLP.

The petitioners also urge that the respondents Nos. 3 and 4 are interfering with enjoyment of the properties aforementioned on the ground that these respondents are taking steps to prefer appeals against the judgment of the Division Bench of this court referred to supra.

The learned Government Pleader for Revenue appearing on behalf of the respondents Nos. 3 and 4 states that these respondents have not interfered and will not interfere with the possession and enjoyment of the petitioners except in accordance with due procedure established by law. In view of this submission made on behalf of the respondents Nos. 3 and 4 no specific direction need be given to these respondents on this aspect.

For the aforesaid reasons the respondents are directed to consider the applications/proposals submitted by the petitioners for sub-division of Plot Nos. 2,3,4 & 7 in Sy.No. 403/151/2, Women's Cooperative Housing Society, Banjara Hills, Hyderabad and pass appropriate orders on these proposals, on merits and without prejudice to the rights of either of the parties in any subsisting *lis* either before this court or before the Supreme Court. Any permission granted by the 1st respondent for the sub-division in favour of the petitioners will, needless to state, be subject to the result of the decision in the appropriate cases. The petitioners shall also individually furnish undertakings to the first respondent that any constructions made consequent on the grant of sub-division will be subject to the result of the proceedings either initiated by the State or in appeals pending or to be filed before the Supreme Court

against the judgment dated 17.2.2006 in W.P.No. 1044/85 and batch. The petitioners shall furnish such undertaking within two weeks and the first respondent shall consider the applications/proposals for sub-division within three weeks from the date of furnishing of the undertakings.

The writ petition is accordingly disposed off at the admission stage. No order as to costs.

Dt: 20.04.2007 ----------

Pvsn Justice G.Raghuram